

TOWNSHIP OF WALL

ORDINANCE NO. 47 - 1990
AS AMENDED

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER XV, "ZONING", OF "THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WALL, 1977," AS AMENDED AND SUPPLEMENTED.

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF WALL, in the County of Monmouth and State of New Jersey, as follows:

Section 1. Purpose. The purpose of this Ordinance is to create a zone district and provide development regulations for a specific tract of land which is included in the Housing Plan and Fair Share Plan Element of the Wall Township Master Plan as adopted on February 13, 1989, and in conformance with the Wall Township Mount Laurel Compliance Plan in conjunction with Docket No. L-51262-84, Cove Industries, Ltd. v. Wall Township, and related Mount Laurel cases, and a Consent Order in that matter entered by His Honor, Eugene D. Serpentelli, A.J.S.C.

This Ordinance creates a new Zone District as follows:

ML-3, Mount Laurel-3.

Section 2. Chapter XV "Zoning," Subsection 15-4.21, "Zoning Map Amendments," is hereby amended to read, as follows:

"a. No change.

b. No change.

c. The map entitled, "Zoning Map of the Township of Wall," dated May 30, 1979, is hereby amended and revised, as follows:

"(1) Block 274, Lot 28 located north of Ocean

Road, west of Route No. 35, consisting of approximately 18.93 acres is hereby rezoned from B-2 and R-30 to ML-3, Mount Laurel-3."

Section 3. Chapter XV, "Zoning", Section 15-18; is hereby amended to read as follows: "Mount Laurel Zones."

Section 4. Chapter XV, "Zoning", Section 15-18 is hereby amended to add a new Section 15-18.3, ML-3, Mount Laurel-3 Zone, as follows:

"Section 15-18.3, ML-3, Mount Laurel 3-Zone.

a. Purpose. The purposes of the ML-3 Zone District shall be as follows:

1. In order to satisfy the constitutional obligations of the Township, as set forth by the New Jersey Supreme Court in its Mount Laurel I and Mount Laurel II decisions, greater flexibility in design, layout and construction of residential development must be permitted in order to encourage developers to participate in the Mount Laurel compliance process. The regulations established by this section are intended to promote that purpose and to meet the Township's responsibilities to protect and defend its natural resources, ecological systems, open spaces, natural beauty and the value of property within the Township while at the same time providing for its fair share of the regional need of affordable housing.

2. The regulations established by this section are also intended to:

(a) Preserve the Township's environmental and natural resources and avoid potential hazards thereto

in anticipation of future development.

(b) Avoid environmental degradation and its resultant harmful effects upon the public health, safety and welfare.

(c) Encourage innovations in housing design and land development techniques and provide for necessary facilities for such developments.

(d) Promote compatibility with the Township's zoning plan and pattern of development.

(e) Encourage retention and preservation of woodlands, surface water, swamps, aquifer recharge areas, poorly drained soils; floodplains and other open space areas for aesthetic and scenic beauty, passive recreation, rejuvenation of natural resources and preservation of the ecological systems of the Township.

(f) Encourage more effective use of land and of public services.

(g) Preserve the residential integrity of the Township.

(h) Ensure compatibility among various land uses.

b. Approving Authority. The Planning Board shall be the approving authority for all applications for development under this subsection.

c. Eligibility for Participation. In every area zoned for ML-3, property may be developed

in accordance with the provisions of the Zone District Regulations cited in the permitted uses, or a developer may elect to participate in the Mount Laurel compliance process. A developer shall be eligible to participate upon satisfaction of the following conditions:

- 1) Proof of ownership or a signed contract of sale of land within an area zoned ML-3; and
- 2) A Developer's Agreement with the Township of Wall stipulating the amount and phasing of the contributions to be made to the Wall Township Affordable Housing Trust Fund.

Section 15-18.3.1. Permitted Principal Uses. In the ML-3 Zone, no site shall be used and no structure shall be erected, altered or occupied for any purpose, except the following:

a. Developments not participating in the Mount Laurel-3 Program shall conform with the R-30 Zone District Regulations.

b. For developments participating in the Mount Laurel Compliance Program, the following uses are permitted:

- (1) Single family detached dwelling units.
- (2) For developments participating in the Mount Laurel Compliance Program, the development shall conform with the provisions of Subsection 15-18.3.4.
- (3) Multiple family dwelling units, including townhouses, apartments and flats.

other accessory structures shall be sixteen (16) feet.

e. Maximum Stories.

Each building shall be limited to two and one-half stories of habitable space and a basement all or more than fifty (50) percent below grade. Basements shall be used only for storage, utilities, garages or similar non-habitable uses. Basements shall only be permitted where the seasonable depth to high water table is two (2) feet or more below the basement floor.

15-18.3.5 Regulations for Multi Family, Single Family Cluster Detached and Single Family/Duplex Mixed Units.

Development in the ML-3 Zone shall be on a minimum of ten (10) acres of "developable land" and shall be subject to the following requirements:

a. Setbacks.

(1) Seventy-five (75) feet from an existing public street or proposed street as designated on the Township Master Plan and one hundred (100) feet from an arterial highway (e.r. Routes 35, 70 and 34). Decks and patios are permissible within the setback from an existing public street or proposed street or arterial highway, however, in no case shall a patio area encroach within fifty (50) feet of any such street or highway.

(2) Twenty (20) feet from any internal or private street, measured from the pavement-side face of the curbing.

(3) Twenty (20) feet from any internal parking area or driveway, measured from the pavement-side face of the curbing.

(4) Fifty (50) feet from any external tract boundary other than a public street or arterial highway as specified in (1) above.

(5) Multi family buildings shall be separated a minimum of thirty-five (35) feet from any other structure provided, however, that where structures have glass to glass exposure separation shall be sixty (60) feet unless the glass planes are at an angle greater than fifteen (15) degrees, includes angles created by buildings being offset, as well as angles created by the plane of one whole building being oblique to the plane of another.

(6) Single family detached or single family/duplex mixed structures shall be separated by a minimum of twenty (20) feet. Single family dwelling units may be joined, however, by walls or fences which enclose private yard areas.

b. Dwelling Unit Storage.

No dwelling unit shall contain less than 300 cubic feet of storage space, which may be within attics, garages, basements or cellars, and which shall be in addition to closet space provided within the unit. If within a garage, a rectangle of not less than ten (10) feet by twenty (20) feet shall remain clear for parking vehicles.

c. Dwelling Unit Width.

No dwelling unit shall be less than twenty (20) feet in width.

d. Open Space and Recreation Area.

A recreation area providing for active recreation facilities such as a pool, court sports, lawn area and recreation building shall be provided. A minimum developable land area of 100 square feet per dwelling unit shall be included within the common recreation area. Pedestrian walks, sidewalks, foot paths or trails, and common open space areas between buildings shall not be included within the

recreation facilities such as a pool, court sports, lawn area and recreation building shall be provided. A minimum developable land area of 100 square feet per dwelling unit shall be included within the common recreation area. Pedestrian walks, sidewalks, foot paths or trails, and common open space areas between buildings shall not be included within the calculations of active recreation area. Required buffer areas adjacent to non-residential zones may be included as recreation area provided the area is developable and is not part of wetlands, wetlands buffer areas or 100 year floodplains.

e. Buffer Areas.

A landscaped buffer strip at least twenty-five (25) feet in width shall be permanently maintained along all property lines of the tract in accordance with the regulations of Section 15-21. The buffer area may include required setback areas. Fences of up to six (6) feet in height are permitted in buffer areas notwithstanding Section 15.20.P. No patio or deck area shall encroach within required buffer areas.

f. Maintenance Building.

A maintenance building adequate in size to provide for enclosed storage of all maintenance equipment shall be provided. A maintenance building may be attached to the recreation building or pool house, if provided, but shall not be included in the calculations of active recreation area referred to in subparagraph d. above.

15-18.3.6 Other Regulations. Developments in the ML-3 Zone shall be subject to the following regulations, requirements and standards:

a. Number of Dwellings Within Buildings.

Not more than four (4) dwelling units shall be contained adjacent to each other on a single plane and not more than eight (8) dwelling units shall be contained within any one building.

b. Front Facade.

The front facade of any structure containing more than one (1) dwelling unit shall not continue on the same plane for a distance of more than the width of four (4) adjacent units. Offsets between front facade planes shall not be less than four (4) feet.

c. Underground Utilities.

All utilities shall be installed underground within the driveways, roadways or other easement areas wherever possible.

d. Public Water and Sanitary Sewers.

All dwelling units shall be served by public water and sanitary sewer systems.

e. Garbage and Recycling Facilities.

Garbage, refuse and recyclable storage and collection areas suitable for containerized collection shall be provided in sufficient number and at locations convenient to all dwelling units. Such collection areas shall be screened from view and shall be constructed of masonry, brick or concrete.

f. Open Space Ownership.

Common open space, recreational and other facilities shall be owned, operated and maintained by any recognized legal entity and the maintenance of the facilities shall be the responsibility of the owner or owners.

g. Documentation of Homeowners Association and Other Restrictive Documents.

All proposed restrictive covenants, articles of incorporation or other documents related to the creation of a Homeowners Association, trust documents or other deeds or documents to provide for ownership and maintenance of common property and facilities shall be submitted to the Board for review and the Board and Township Attorney prior to final approval of a subdivision or site plan.

h. Construction Easements.

In all cases where the maintenance or repair of any wall, fence or other improvement by its owner or his agent would require entering upon an adjacent property, an appropriate easement

or right shall be created in favor of the subject owner. All such easements shall be detached and specific as to required notice and any limitations upon the right of entry and shall provide a specific means of arbitration in the event of disputes.

i. Streets, roads, driveways, parking facilities, walkways, street lights, fire hydrants, drainage facilities and other improvements required by Chapter XVII or appropriate or necessary to the development shall be installed by and at the expense of the developer, in accordance with the specifications of Chapter XVII except as modified herein:

(1) "Rolled" curbs shall be permitted, in accordance with standards approved by the Township Engineer.

(2) Drainage maintenance (Section 17-7.14m) in privately maintained streets shall be the responsibility of the developer or homeowners association.

(3) Street intersections (Section 17-8.3g.3) shall be spaced not less than 600 feet on collector streets and 500 feet on local streets and 250 feet on intersection roads. Intersections between private streets and those involving driveways or entrances to parking areas are not subject to these requirements but shall instead be based upon standard parking lot requirements as determined by the Township Engineer.

(4) Tangents between reverse curves on local and private streets (Section 17-8.31.) shall be a minimum of four (4) feet unless otherwise provided by the Township Engineer.

(5) The maximum length of permanent deadend or cul-de-sac streets (Section 17-8.30.) shall be 500 feet. Loop roads are not subject to this requirement.

(6) Pedestrian crosswalks (Section 17-8.4b) may be required in blocks over 1,000 feet in length and may be straight or meandering.

j. All internal streets, regular roads and drives within the tract shall be private and shall be maintained by the body responsible for common areas. Internal streets, roads and drives shall have the following minimum pavement widths:

- (1) With no parking - 24 feet (optional to add 3 feet for rolled top curb)
- (2) With one-side parking - 33 feet (3 feet may be part of rolled curb)
- (3) With two-side parking - 36 feet (3 feet may be part of rolled curb)

(4) An additional right-of-way of seven (7) feet shall be provided on both sides of any street, measured from the curb, for utilities, sidewalks and shade trees.

(5) If an internal street, road or drive has perpendicular parking, it shall be deemed to be a private drive.

(6) The preceding standards for streets, roads and drives do not apply to driveways leading to single or duplex units which shall be governed by the standards for driveways and driveway aprons contained in the land subdivision ordinance of the Township.

k. At least two (2) parking spaces shall be provided for each dwelling unit, at least one of which shall be in an enclosed garage, and guest parking shall be provided at a ratio of one space for every four (4) units. Required guest parking spaces may be provided on driveways leading to attached garages, or parallel parking on internal streets in accordance with (j) above or within collective parking lots or areas. All parking spaces shall be within 250 feet of the dwelling unit.

l. All sidewalks shall be a minimum of four (4) feet in width, where provided. Sidewalks shall not be required if an adequate pedestrian circulation system can be demonstrated to the satisfaction of the Planning Board.

m. No driveway shall enter any internal or private

street at a point closer than thirty (30) feet to any internal private street intersection, which distance shall be measured between the curb line or the pavement edge or to the intersecting street right-of-way nearest to the driveway in question. Driveways leading to attached and freestanding garages shall have a minimum length of twenty (20) feet not including any part of a pedestrian walkway, common driveway or interior street.

n. A wall may be erected adjacent to the main entrance of the project provided that the wall is setback at least twenty-five (25) feet from the existing right-of-way of the public street, provides adequate turning radius for all emergency vehicles, and does not interfere with sight triangles. The wall shall not exceed six (6) feet in height.

o. A gatehouse not to exceed fifteen (15) feet in height is permitted provided that it is setback at least twenty-five feet from the existing right-of-way of the public street, provides adequate turning radius for emergency vehicles and provided further that the applicant agrees that the gatehouse will be used for security purposes only and will never be dedicated to the public.

15-18.3.7 Soil Removal. The provisions of Section 15-5.14 of the Zoning Ordinance pertaining to the removal of soil shall apply to developments in the ML-3 Zone except as follows:

1. The provisions of Subsection 15-5.14b.1 may be modified to allow the Township Engineer to issue a permit for the removal of sub-soil as may be necessary to construct the structures approved by the approving authority.

2. The provisions of Subsection 15-5.14b.2 may be modified as required by the Planning Board to issue a temporary soil removal permit for the removal of soil, sand or gravel as may be necessary to render the premises suitable for the ML-3 development, for which a site plan or major subdivision plat has been approved. The developer shall adhere to and the Planning Board shall apply the standards of the Grading and Soil Removal Ordinance."

Section 5. All Ordinances, or parts, thereof, inconsistent with the provisions of this Ordinance, be and the same are hereby repealed to the extent of such inconsistency, including Ordinance 7-1990 and Ordinance 20-1990.

Section 6. Should any section, paragraph, clause or any other portion of this Ordinance be adjudged by a Court of competent jurisdiction to be invalid, such judgment shall not affect or impair the remainder of this Ordinance.

Section 7. This Ordinance shall take effect immediately upon passage, publication according to law, filing with the Monmouth County Planning Board, and upon the entry of a Judgment of Compliance or a Consent Order concerning specific property to be located in the ML-3 Zone, In the Matter of Stonebrook at Wall, Inc. v. Township of Wall, Docket No. L-089587-87, which is included in the consolidated case of Cove Industries, Ltd. v. Wall Township, Docket No. L-051262-84.

NOTICE

Notice is hereby given that the foregoing Ordinance was introduced and passed on first reading by the Township Committee of the Township of Wall on Oct. 10, 1990 and will be further considered for final adoption at the Wall Township Municipal Building, 2700 Allaire Road, Wall, New Jersey, on Nov. 14, 1990 at 8 o'clock p.m., or as soon thereafter as the matter can be reached on the agenda, at which time and place all persons interested therein shall be given an opportunity to be heard, and during the week prior to, and up to and including, the date of such meeting, copies of said Ordinance will be made available at the Clerk's office in the Township of Wall Town Hall to the members of the general public who shall request the same.

GILROY, CRAMER
& McLAUGHLIN
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

BEATRICE M. GASSNER, CMC
Township Clerk

Adopted 11/28/90